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SECRETARY OF STATE

BEFORE THE TENNESSEE WATER QUALITY CONTROL BOARD

IN THE MATTER OF:

BRIAN FLOWERS

RESPONDENT

) **DIVISION OF WATER**
) **POLLUTION CONTROL**
)
)
) **CASE NO. 07-0165**
)
) **DOCKET NO. _____**

AGREED ORDER

This matter came to be heard before the Tennessee Water Quality Control Board upon the Director's Order and Assessment of Civil Penalty, as the Commissioner's duly authorized representative and the Respondent's Petition for Appeal. The Board, a quorum present, hereby adopts the following Findings of Fact, Conclusions of Law, Order and Assessments to which the parties have agreed, as evidenced by the signatures below.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The facts and violations set out in Paragraphs I. through XI. of the Director's Order issued January 25, 2007, are agreed to and admitted by the Respondent. These sections are adopted by the Board and incorporated herein by reference.

ORDER

WHEREFORE, PREMISES CONSIDERED, the Board hereby ORDERS that:

1. The Respondent shall hereafter comply with the Tennessee Water Quality Control Act and all Division Rules.
2. The Respondent shall not engage in dredging activities at the site unless appropriate permit coverage has been obtained from the Division.

3. The Respondent shall pay civil penalties in the amount of TEN THOUSAND FOUR HUNDRED TWENTY-FIVE DOLLARS (\$10,425.00) to the Division to be paid as follows:
 - a. The Respondent shall pay a civil penalty in the amount of THREE THOUSAND THREE HUNDRED DOLLARS (\$3,300.00) to the Division within thirty (30) days of this order becoming final.
 - b. If and only if the Respondent fails to comply with item 2 above, the Respondent shall pay to the Division a civil penalty in the amount of SEVEN THOUSAND ONE HUNDRED TWENTY-FIVE DOLLARS (\$7,125.00) payable within thirty (30) days of receipt of notice of default.
4. By entering into this Agreed Order, the Respondent knowingly and voluntarily waives his right to appeal, as described in the RIGHTS OF APPEAL section, listed below.

REASON FOR DECISION

The Board approves this Agreed Order because it is a fair and reasonable settlement of the matter. The Board also approves of settlements in that they conserve the resources of the Department and the Board.

RIGHTS OF APPEAL

The Respondent is hereby notified and advised of the right to administrative and judicial review of this FINAL DECISION AND ORDER pursuant to the Tennessee Uniform Administrative Procedures Act, T.C.A. §§ 4-5-316, 4-5-317 and 4-5-322 and the Water Quality Control Act, T.C.A. §§ 69-3-111 and 69-3-115.

T.C.A. § 4-5-316 gives a party the right to submit to the Board a Petition for Stay of Effectiveness of a Final Order within seven (7) days after its entry.

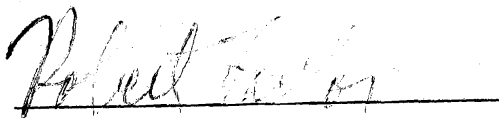
T.C.A. § 4-5-317 gives any party the right to file a Petition for Reconsideration within ten (10) days after the entry of a Final Order, stating specific grounds upon which relief is requested.

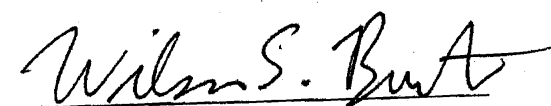
T.C.A. § 4-5-322 and 69-3-111 provide the right of judicial review by filing a Petition in the Chancery Court of Davidson County within sixty (60) days of entry of this Order.

A copy of this Agreed Order shall be served upon the Respondent by certified mail, return receipt requested. This final decision and order shall become effective upon entry.


APPROVED FOR ENTRY:

FOR THE TENNESSEE WATER QUALITY CONTROL BOARD:


Chairperson


Wilson S. Buntin, BPR #023231
Tennessee Department of Environment & Conservation
Office of General Counsel
20th Floor, L & C Tower
401 Church Street
Nashville, Tennessee 37243
(615) 532-0131

Date 7-12-07


Respondent
Brian Flowers

Date 5-1-07

Entered in the Office of the Secretary of State, Administrative Procedures Division, this

17th day of July, 2007.

Charles C. Sullivan, II

Charles C. Sullivan, II, Director
Administrative Procedures Division